

REMARKS

The Office Action mailed on August 23, 2005 has been carefully considered. Accordingly, the changes presented herewith, taken with following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claims 70-88 are currently pending in the instant application. Claims 70-73, 75-81, and 85-88 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 5,702,440 ("Portney"). Claims 74 and 82-84 stand rejected as being unpatentable over Portney in view of USPN 5,847,802 ("Menezes et al."). The Examiner has objected to claim 84 for certain informalities, which have been corrected in the currently amended version of claim 84.

Claims 70-73, 75-81, and 85-88 Are Not Anticipated by Portney.

Claims 70-73, 75-81, and 85-88 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Portney. Applicant traverses this rejection based on the following arguments.

Portney teaches an intraocular lens, which comprises a circular optic and two fixation members. The optic has a central zone, inner and outer annular near zones, and annular far zones. Portney, column 3, lines 19-21 and 36-37. The outer annular zones have vision correction powers, which are less than the far vision correction power of the patient, to compensate for the increase in the mean power of the multifocal ophthalmic lens. The net effect of the near vision annular zones and the annular zones having power less than the far vision correction power is to focus the best quality image onto the retina of the eye, to thereby reduce halo effects and improve contrast. Portney, column 2, lines 22-36.

By contrast, claim 70 of the instant application is directed to an intraocular lens in a mammalian eye including a natural lens having a natural accommodative capability, the intraocular lens comprising, in pertinent part, a plurality of annular regions includes a region having a first optical add power for near vision, the first optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability.

Portney does not teach or suggest a first optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability. To the contrary, Portney teaches inner and outer annular near zones for providing near vision. Portney further teaches outer annular zones with vision

correction powers less than a far vision correction power of the patient. These additional annular zones compensate for the near-vision powered annular zones. Portney, Abstract. This feature is specifically directed to use with patients having minimal residual accommodation (Portney, column 1, lines 34-37). Thus, Portney teaches an IOL to provide near vision for patients having minimal residual accommodation and is completely silent regarding the use of an optical add power that in combination with the natural accommodative capability of the natural lens of the eye. Indeed, in the example shown in FIG. 4 of Portney, the vision correction of annular near zones 19, 20 form plateaus 41, 45 at approximately 3.5 diopter power, an amount of diopter power typical for providing near vision. The annular zones 19, 20 in FIG. 4 of Portney are seen to be similar to the dashed lines in FIG. 3 of the instant application in the regions of the annular zones 29, 30. However, claim 70 is limited to optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability, for example, having a magnitude such as those illustrated by the solid lines in FIG. 3 of the instant application in the regions of the annular zones 29, 30.

The Examiner has asserted that because the diopter correction will vary with the amount of accommodative capability of the natural lens, Portney is clearly suggesting that the IOL be used in an eye including a natural lens having at least some natural accommodative capability. This assertion appears to be based on the teachings of Portney that the diopters shown in FIG. 4 are merely exemplary, and the actual correction provided will vary with the prescription needs of the patient. Portney, column 4, lines 31-34. Applicant respectfully traverses this assertion. Portney does not teach varying a diopter correction based on the amount of accommodative capability of the natural lens. The teaching of Portney cited by the Examiner merely points out that different patients have different prescription needs. The only teaching by Portney regarding accommodation found by the undersigned was that cited above, in which Portney teaches that the subject IOL feature is suited to a patient having minimal residual accommodation. Contrary to the Examiner's assertion, it is Applicant's contention that Portney rather suggests an IOL that is suited for patients having no functional amount of accommodative ability (i.e., an IOL that provides near zones for providing near vision). At a minimum, Portney fails to provide an enabling disclosure that would teach one of ordinary skill in the art to make and use an IOL as claimed in claim 70 of the instant application.

Also in contrast to Portney, Claim 81 of the instant application is directed to an intraocular lens for use in a mammalian eye including a natural lens having a natural accommodative capability, the intraocular lens comprising, in pertinent part, an annular region

having a maximum optical add power, the maximum optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability, each of the optical add powers of the IOL being less than the full optical power required for near reading in a pseudophakic subject.

Based on arguments similar to those presented above with regard to claim 70, Applicant asserts that Portney does not teach or suggest an IOL with a maximum optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability. Furthermore, Portney does not teach or suggest each of the optical add powers of the IOL being less than the full optical power required for near reading in a pseudophakic subject. While Portney does teach IOLs having annular zones for providing intermediate vision correction powers, Portney also teaches that such IOLs also having outer annular near zones for providing near vision. Thus, Portney does not teach or suggest each of the optical add powers of the IOL be less than the full optical power required for near reading in a pseudophakic subject.

At least because Portney does not teach or suggest all of the limitations of claims 70 or 81, Applicant requests the Examiner to indicate that claims 70 and 81 are allowable. Claims 71-73, 75-80, and 85-88 depend from claims 70 or 81 and further define the invention of claims 70 and 81. Thus, claims 71-73, 75-80, and 85-88 are patentable over Portney at least for the same reasons that claims 70 and 81 are patentable thereover, and are patentable in their own right as well.

Claims 74 and 82-84 Are Patentable Over Portney in view of Menezes et al.

Claims 74 and 82-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Portney in view of Menezes et al. Applicant respectfully asserts that a prima facie case of obviousness has not been made, since Menezes et al. does not teach or suggest, either alone nor in combination with Portney, all the elements of claims 74 or 82-84.

Menezes et al. does not teach or suggest, either alone nor in combination with Portney, all the elements of claims 70 or 81, much less those of claims 74 or 82-84, which depend from claims 70 or 81. For example, Menezes et al. does not teach, either alone or in combination with Portney, a first optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability, as recited in claim 70. Nor does Menezes et al. teach, either alone or in combination with Portney, an

IOL with a maximum optical add power having a magnitude so as to provide, in combination with the natural accommodative capability of the natural lens of the eye, enhanced reading vision ability, as recited in claim 81.

At least because Menezes et al., either alone or in combination with Portney, does not teach or suggest all of the limitations of claims 74 or 82-84, which depends from claims 70 or 81, Applicants request the Examiner to indicate that claims 74 or 82-84 are allowable.

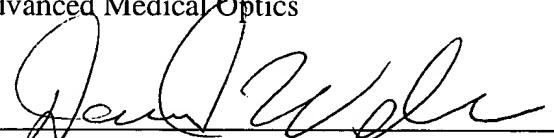
CONCLUSION

For the foregoing reasons, Applicant respectfully asserts that the claims now pending are allowable over the prior art of record. Therefore, Applicant earnestly seeks a notice of allowance and prompt issuance of this application.

The Commissioner is hereby authorized to charge payment of any fees associated with this communication to Deposit Account No. 502317.

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